

Message Text

CONFIDENTIAL

PAGE 01 OTTAWA 00136 01 OF 02 150350Z
ACTION L-03

INFO OCT-01 EUR-12 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DLOS-06
DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00
H-01 INR-07 INT-05 IO-13 JUSE-00 NSAE-00 NSC-05
NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15
SAL-01 USIE-00 NSCE-00 INRE-00 SSO-00 /115 W
-----150406Z 051931 /63

O 150235Z JAN 77
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC NIACT IMMEDIATE 2129

C O N F I D E N T I A L SECTION 1 OF 2 OTTAWA 136

FOR EUR/CAN - ROUSE; L: LEIGH AND FELDMAN; OES: RIDGEWAY.

E.O. 11652: GDS
TAGS: PBOR, EFIS, CA
SUBJ: MARITIME BOUNDARY AND FISHERY NEGOTIATIONS

REF: SECSTATE 008596

1. PRESENTED AIDE MEMOIRE AND ARGUMENTATION CONTAINED
PARAS 4, 5 AND 6 OF REFTEL TO EXTAFF UNDERSECRETARY
ROBINSON JANUARY 14. DIRECTOR AMERICAN AFFAIRS
NUTT, EXTAFF LEGAL ADVISER COPITHORNE, FISH NEGOTIATOR
LEGAULT, AND EXTAFF LAWYER PHILLIPS ALSO
PRESENT.

2. ROBINSON GAVE HIS REACTION PARAGRAPH BY PARAGRAPH
WITH REFERENCE TO AIDE MEMOIRE.

3. AIDE MEMOIRE PARA ONE. ROBINSON THANKED US FOR
AIDE MEMOIRE WHICH HE DESCRIBED AS AN IMPORTANT STEP
FORWARD. GOC WILL NOW REVIEW ISSUES WITH A VIEW
TOWARDS GIVING US ITS OWN AIDE MEMOIRE FEBRUARY 17
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 OTTAWA 00136 01 OF 02 150350Z

OR CONCEIVABLY 18TH. OBJECTIVE NOW SHOULD BE TO
REACH WRITTEN AGREEMENT ON WHICH TO PROCEED.

4. AIDE MEMOIRE PARA TWO. ROBINSON PICKED UP WORDS
AT THE END OF FIRST SENTENCE (THE SHORT-TERM AGREEMENT
"WOULD NOT BE EXTENDED"). HE RECALLED THAT THE
UNDERSTANDING WITH JAMIESON ON JULY 09 HAD BEEN

"ONLY THAT NO EXTENSION WOULD BE ENVISAGED."
FORMULATION WOULD ALLOW FOR USE OF INTERIM AGREEMENT
DURING PERIOD OF THIRD PARTY SETTLEMENT, SHOULD THAT
BE NECESSARY. I REPLIED THAT MY RECOLLECTION SQUARED
WITH ROBINSON'S (SEE OTTAWA 0067, PARA 10). SUBJECT
TO WASHINGTON CONFIRMATION, I SUGGESTED THIS PHRASE
READ: "WOULD NOT BE EXTENDED EXCEPT TO THE EXTENT
REQUIRED BY THIRD PARTY SETTLEMENT, SHOULD THAT BE
NECESSARY." (SEE BELOW FOR DISCUSSION OF THIRD
PARTY SETTLEMENT ISSUE).

5. LEGAULT ASKED WHETHER "ON A PATTERN OF FISHING
CONSISTENT WITH THE STATUS QUO" IMPLIED FISHING TAKES
FOR CANADA AND THE UNITED STATES COMPARABLE TO THOSE
IN THE LAST ICNAF AGREEMENT. I REPLIED THAT THE U.S.
COULD NOT MAKE A COMMITMENT TO CANADA IN RESPECT TO
THE U.S. FISHING LEVELS IN THE AREA SOUTH OF THE
EQUIDISTANCE LINE. BUT I UNDERSTOOD THAT OUR INTENT
WOULD BE THAT FISHING THAT OCCURRED SHOULD NOT VIOLATE
SOUND CONCEPTS OF CONSERVATION. RESULTS SHOULD
THUS BEAR SOME CLOSE RELATIONSHIP TO ICNAF STANDARDS.

6. WITH REGARD TO THE LAST SENTENCE IN PARA TWO
I MADE FIVE POINTS:

(A) FOR U.S., SHOURT-TERM AGREEMENT WOULD HAVE TO BE
STRUCTURED AROUND DISTINCTION OF THREE ZONES: NORTH
OF U.S. LINE WHICH ONLY CANADA CLAIMED, AREA BETWEEN
THE TWO LINES WHICH BOTH COUNTRIES CLAIMED, AND SOUTH
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PAGE 03 OTTAWA 00136 01 OF 02 150350Z

OF THE EQUIDISTANCE LINE WHICH ONLY THE U.S. CLAIMED
BUT WHERE CANADA WISHED TO RESERVE THE RIGHT TO
CLAIM OR ARGUE FOR A MORE SOUTHERLY LINE. LEGAULT
REPLIED THAT HE INTENDED TO ADVANCE AGAIN HIS ICNAF
CONCEPT. I THEN ASKED HIM TO CONFIRM THE STATEMENT
TO ME (OTTAWA 0101, PARA 3A) THAT THE DISTINCTION
INTO THREE ZONES DOES NOT IPSO FACTO PREJUDICE THE
CANADIAN CLAIM. LEGAULT CONFIRMED, BUT SAID THAT
CANADA COULD NOT ABANDON ITS OWN FORMULA AS OF NOW.
I TOLD LEGAULT THAT UNITED STATES WOULD HAVE NO
REPEAT NO FLEXIBILITY ON THAT ISSUE IN THE DISCUSSIONS.

(B) CANADIAN VESSELS MUST CARRY U.S. PERMITS AND
BE SUBJECT TO U.S. ENFORCEMENT SOUTH OF THE EQUI-
DISTANCE LINE. LEGAULT REPLIED THAT HE DIDN'T LIKE
PERMITS, BUT THEY WOULD NOT REPEAT NOT NECESSARILY BE AN
INSUPERABLE OBSTACLE. EVERYTHING DEPENDED ON HOW
THEY ARE DEFINED. I REPLIED THAT LATTER WAS A MATTER
THAT COULD BE ADDRESSED IN LOS ANGELES. REGARDING

ENFORCEMENT, LEGAULT CLAIMED THAT CANADA HAS NO AUTHORITY UNDER ITS ORDER IN COUNCIL TO ATTEMPT ENFORCEMENT SOUTH OF THE EQUIDISTANCE LINE. HE SAID THAT THIS PROVISION WOULD NOT CAUSE TROUBLE. ON THE OTHER HAND, HE WAS NOT SURE THAT PROVISIONS FOR SURVEILLANCE AND INSPECTION MIGHT NOT LEAD TO SOME DISPUTE. AGAIN, I SAID THIS WAS AN ISSUE TO BE DISCUSSED IN LOS ANGELES.

(C) THERE COULD BE NO U.S. COMMITMENT TO CANADA ON U.S. FISHING LEVELS IN THE AREA SOUTH OF THE EQUIDISTANCE LINE. THIS, IN OUR VIEW, IS THE ESSENCE OF THE JOINT MANAGEMENT PROBLEM. LEGAULT REPLIED THAT HE RECOGNIZED THE PROBLEM OF "HOW YOU TREAT THE NUMBERS," AND CLEARLY WILL ATTEMPT IN LOS ANGELES TO BACK US INTO SOME FORM OF COMMITMENT. HOWEVER, CANADIAN ACCEPTANCE THAT THERE WOULD BE NO JOINT
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PAGE 04 OTTAWA 00136 01 OF 02 150350Z

MANAGEMENT IN THE SHORT-TERM AGREEMENT, WHICH ROBINSON RECONFIRMED TODAY UNDERCUTS SUCH AN EFFORT.

(D) UNITED STATES WOULD NOT REQUIRE A CANADIAN DECLARATION RECOGNIZING JURISDICTION. ROBINSON WELCOMED THIS AS A MAJOR STEP FORWARD.

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PAGE 01 OTTAWA 00136 02 OF 02 150358Z

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FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC NIACT IMMEDIATE 2130

CONFIDENTIAL SECTION 2 OF 2 OTTAWA 136

FOR EUR/CAN - ROUSE; L: LEIGH AND FELDMAN; OES: RIDGEWAY.

(E) UNITED STATES WOULD NOT OBJECT TO INCLUSION OF A DISCLAIMER ALONG THE LINES OF NOVEMBER 1, 1976 ORDER IN COUNCIL. ROBINSON WELCOMED THIS BUT LEGAULT PUSHED FOR THE NEED FOR OTHER ELEMENTS IN THE AGREEMENT TO SUPPORT IT.

7. AIDE MEMOIRE PARA THREE. REGARDING THE ELEMENTS IN THE SHORT-TERM AGREEMENT, ROBINSON CONFIRMED THAT THEY WOULD BE AS LISTED IN THE AIDE MEMOIRE (SECSTATE 004237), WHICH THE EMBASSY PASSED ON JANUARY 8, PROVIDED THE BOUNDARY QUESTIONS WERE SATISFACTORILY AGREED.

8. AIDE MEMOIRE PARA FOUR. IN THE SECOND SENTENCE, LEGAULT REMINDED ME THAT THE DISCUSSION WITH JAMIESON HAD BEEN IN TERMS OF "FOUR ELEMENTS WOULD BE ADDRESSED" (OTTAWA 0067, PARA 10). THIS FORMULATION, I SURMISE, IS DESIGNED TO GIVE THE CANADIANS THE OPTION OF ARGUING FOR A SINGLE AGREEMENT ADDRESSING THE FOUR QUESTIONS. JAMIESON AND I AGREED THAT IT
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PAGE 02 OTTAWA 00136 02 OF 02 150358Z

WOULD BE IMPOSSIBLE AS OF THIS TIME TO CHARACTERIZE THE RELATIONSHIP BETWEEN THE FOUR ELEMENTS, AND I TOLD ROBINSON THAT I COULD SEE NO REASON WHY WE COULDN'T ADOPT THE VARIANT, SUBJECT TO WASHINGTON CONFIRMATION.

9. ROBINSON SAID THAT CANADA HAD NOT CONSIDERED THE ELEMENTS THAT SHOULD GO INTO THE OTHER BOUNDARY AREAS, AND WISHED TO RESERVE CANADA'S POSITION ON THE LAST SENTENCE IN PARA FOUR.

10. AIDE MEMOIRE PARA FIVE. COPITHORNE BOGGLED AT THE USE OF THE WORD "BINDING". HE SAID THAT CANADA HAD NOT THOUGHT THROUGH THE EXACT SEQUENCE, AND MIGHT WISH TO PROVIDE FOR A PERIOD OF CONCILIATION OR MEDIATION BEFORE GOING TO BINDING SETTLEMENT. ROBINSON SAID THAT THE WHOLE ISSUE OF THIRD PARTY SETTLEMENT WAS OF INTEREST TO JAMIESON, AND COULD NOT BE FURTHER ELABORATED WITHOUT HIS CONSENT. NUTT SUGGESTED THAT AN APPROPRIATE VARIANT MIGHT BE "CONCLUSIVE THIRD PARTY SETTLEMENT". I SAID I THOUGHT THE NEED WAS FOR A PROCESS THAT WOULD ASSURE IN A REASONABLE TIME PERIOD THAT THE ISSUE GOT SETTLED. SUBJECT TO WASHINGTON CONFIRMATION, WE MIGHT TRY TO FIND SOME OTHER

FORM OF WORDS THAT WOULD DEMONSTRATE THAT WE WERE NOT ENVISAGING ANOTHER OPEN-ENDED PROCESS SIMILAR TO CURRENT NEGOTIATIONS.

11. ROBINSON INDICATED THAT HE DID NOT HAVE A POSITION ON USE OF THIRD PARTY SETTLEMENT FOR BOUNDARIES OTHER THAN THOSE IN THE GULF OF MAINE.

12. AS REGARDS THE LAST SENTENCE IN PARA 5, ROBINSON ASKED WHAT WE MEANT BY "BOUNDARY ISSUES". AFTER SOME DISCUSSION, I SAID IT SHOULD BE TAKEN TO MEAN BOUNDARY AND RELATED ISSUES, TO INCLUDE THE BOUNDARY, CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 00136 02 OF 02 150358Z

LONG-TERM HYDROCARBON ARRANGEMENTS, MARINE POLLUTION ARRANGEMENTS, AND ANY STATEMENT ABOUT LINKAGE WITH LONG-TERM FISHERIES ARRANGEMENTS THAT CANADA WISHED TO MAKE. LONG-TERM FISHERIES NEGOTIATIONS COULD BEGIN PROMPTLY, FOLLOWING CONCLUSION OF THE SHORT-TERM FISHERIES NEGOTIATIONS, AND ALLOWING TIME FOR FURTHER INTERNAL USG DISCUSSIONS.

13. COPITHORNE CLAIMED HE WASN'T "REVVED UP FOR BOUNDARY DISCUSSIONS" AND DATE SHOULD BE END OF FEBRUARY. I SAID IT SHOULD BE IMMEDIATELY FOLLOWING AGREEMENT ON THE OVERALL FRAMEWORK. ROBINSON SAID HE WISHED TO DISCUSS TIMING WITH ME WHEN WE DISCUSSED THE CANADIAN REPLY TO OUR AIDE MEMOIRE, PROBABLY JANUARY 17.

14. COMMENT. CANADIAN CAVILLING ON BINDING THIRD PARTY SETTLEMENT IS CLEARLY A SOFT POINT IN THE CANADIAN RESPONSE. SO ALSO IS THE ONGOING CANADIAN HOPE OF SOMEHOW BACKING UP THEIR CLAIM SOUTH OF THE EQUIDISTANCE LINE.

15. ACTION REQUESTED. SUGGEST YOU GIVE ME INSTRUCTIONS ON EACH OF THE POINTS IN ISSUE RAISED ABOVE, SO THAT I CAN REFLECT THEM IMMEDIATELY TO ROBINSON WHEN WE MEET NEXT WEEK.

16. WITH REGARD TO BINDING SETTLEMENT, I SHOULD BE INSTRUCTED TO MAKE A NEW EFFORT. IF IT FAILS, PERHAPS SOME FORMULATION SUCH AS "THIRD PARTY SETTLEMENT THAT WILL ASSURE RESOLUTION WITHIN A LIMITED PERIOD" WOULD BE BETTER THAN NOTHING.

17. I THINK WE SHOULD INSIST ON STARTING THE BOUNDARY AND RELATED ISSUE TALKS WHILE THE SHORT-TERM FISHERIES NEGOTIATIONS ARE IN FORCE.

CONFIDENTIAL

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PAGE 04 OTTAWA 00136 02 OF 02 150358Z

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Message Attributes

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